



CITY OF PATASKALA BOARD OF ZONING APPEALS

City Hall, Council Chambers
621 West Broad Street
Pataskala, Ohio 43062

STAFF REPORT

March 14, 2023

Conditional Use Application CU-23-001

Applicant:	Kim Sims
Owner:	Kim Sims
Location:	239 Sims Road SW, Pataskala, OH 43062 (PID:063-147342-00.000)
Acreage:	+/- 1.36-acres
Zoning:	R-87 – Medium-Low Density Residential
Request:	Requesting approval of a Conditional Use to allow for a Type B Home Occupation (Dog Boarding and Training) within an existing Accessory Building.

Description of the Request:

The applicant is seeking approval of a Conditional Use to allow for a Type B Home Occupation (Dog Boarding and Training) within an existing Accessory Building on their property.

Staff Summary:

The 1.36-acre property located at 239 Sims Road is currently occupied by a 1,688-square foot single-family home built in 1950, and a 1,200-square foot pole barn building in 2020. It is Lot 19-A of the Sims Gardens Subdivision, which was created by a Replat of Lots 19 and 20 and approved by the Planning and Zoning Commission on October 2, 2019 (REP-19-001), and is located at the far east end of Sims Road SW.

As proposed, the Applicant is requesting approval of a Conditional Use in order to locate a Type B Home Occupation within the existing Accessory Building on the lot. Per Section 1267.02(B) of the Pataskala Code, a Type B Home Occupation is any home occupation in which either one employee or one or more customers come to the site. As the proposed use includes customers traveling to the site, it would be considered a Type B Home Occupation, and pursuant to Section 1229.04(1) of the Pataskala Code, Type B Home Occupations and a Conditional Use in the R-87 – Medium-Low Density Residential zoning district.

As proposed, the Applicant intends to utilize the existing pole barn on the property as the location to operate a dog boarding business. The Applicant has already been operating the proposed use from the property for an unknown length of time, and was sent a violation letter on February 6, 2023, by the Zoning Inspector (see full Zoning Inspector comments under Staff Review) for operating a business without proper approval after a complaint had been made to Staff.

Per the Narrative Statement as submitted by the Applicant, the proposed use would be open seven (7) days a week, with drop off and pick up available from 7AM to 9AM and then 5PM to 7PM. Dogs, when outside, would be under adult supervision, and would be moved inside by 8PM. The outside dog run area will be surrounded by a six (6) foot wooden privacy fence to the rear of the existing pole barn, and the barn itself is fully insulated with open cell spray foam with wood/metal coverings to act as a sound barrier. Within the proposed facility, there are 14 stalls of varying dimensions.

Staff Review: *The following summary does not constitute recommendations but merely conclusions and suggestions from the Staff Review, the full text of which follows the summary.*

Planning and Zoning Staff:

As mentioned above, A Type B Home Occupation, in which either one (1) employee or one (1) or more customers come to the site, is a Conditional Use in the R-87 – Medium-Low Density Residential zoning district. As customers would be coming to the site to drop off and pick up dogs, the proposed use requires Conditional Use approval from the Board of Zoning Appeals.

Pursuant to Section 1267.03(C), there are additional regulations which cover Type B Home Occupations. Those being:

1. Customers may visit the site only during the hours of 7:00 a.m. to 9:00 p.m.
2. One nonresident employee is allowed.
3. Only twelve (12) customers or clients may visit the site in a day.
4. Retail sales of goods must be entirely accessory to any services provided on the site.
5. No more than one (1) Type B Home Occupation per dwelling unit is allowed.

In addition, there are several other site-related standards that must be adhered to. The appearance and of the structure and site must remain residential in appearance (1267.04(C)), outdoor activities are prohibited excepting dedicated exercise of play areas (1267.04(B)(1)), and the property is permitted to have one (1) sign not to exceed two (2) square feet in area if within 15-feet of the public right-of-way, or six (6) square feet is further than 15-feet.

Section 1267.05 of the Pataskala Code details several impact-related standards for home occupations that must be adhered to. Such as 1267.05(C): The maximum noise level for a home occupation is 50 dBA. Noise level measurements are taken at the property line, and 1267.05(E): Truck deliveries or pick-ups of supplies or products, associated with business activities, are allowed at the home only between 8:00 a.m. and 5:00 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods.

From the information received, Staff believes the Applicant would be in compliance with the requirements, however, a possible condition has been added to address any uncertainty. Pursuant to Section 1267.06(E), a Home Occupation permit may be revoked by the Zoning Inspector for failure to comply with the regulations of Chapter 1267 – Home Occupations.

As this is a Conditional Use, the approval shall become null and void if such use is not carried out (all permits applied for and received) within six (6) months after the date of approval.

Zoning Inspector (Full comments attached)

Received a complaint regarding a dog boarding business that was being operated at the subject location without prior approval. Courtesy notification made on January 23, 2023, and a violation letter was sent on February 6, 2023.

West Licking Joint Fire District (Full comments attached)

Owner should contact the Fire Marshal's office to schedule an inspection.

Other Departments and Agencies

No other comments were received.

Neighbor Comments

Staff received an email from a concerned resident at 239 Sims Road SW. Their email is attached to this Staff Report.

Surrounding Area:

Direction	Zoning	Land Use
North	R-87 – Medium-Low Density Residential	Single-Family Home/Forested
East	RR – Rural Residential	Agricultural
South	R-87 – Medium-Low Density Residential	Single-Family Home
West	R-87 – Medium-Low Density Residential	Single-Family Home (Under Construction)

Conditional Use Requirements:

According to Section 1215.04 of the Pataskala Code, the Board of Zoning appeals shall consider whether the conditional use at the proposed location:

1. *Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on the application.*
2. *Will be harmonious with and in accordance with the general objectives or with any specific objective of the City comprehensive plan and/or this Code.*
3. *Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
4. *Will not be hazardous or disturbing to existing or future neighboring uses.*
5. *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
6. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
7. *Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.*
8. *Will have vehicular approaches to the property which shall be so designed as to not create an interference with traffic on surrounding public thoroughfares.*
9. *Will not result in destruction, loss or damage of a natural, scenic, or historic feature of major importance.*

Furthermore, Section 1215.05 allows other factors to be considered, when determining if a conditional use is appropriate. In Staff's opinion the following factors from Section 1215.05 are applicable to Conditional Use Application CU-22-007:

- 1215.05(A)(7): All permitted installations shall be kept in a neat and orderly condition so as to prevent injury to any single property, any individual, or to the community in general.

Department and Agency Review

- Zoning Inspector – See attached.
- Public Service – No comments.
- City Engineer – No comments.
- Pataskala Utilities – No comments.
- Police Department – No comments.
- West Licking Joint Fire District – No comments.
- Southwest Licking School District – No comments.

Conditions:

Should the Board choose to approve the applicant's request, the following conditions may be considered:

1. The Applicant shall obtain all necessary permits and inspections from the City of Pataskala, Licking County Building Code Department, and West Licking Joint Fire District within six (6) months of the date of approval.
2. The Applicant shall adhere to the requirements of Chapter 1267 of the Pataskala Code for the duration of business operations.
3. Any conditions from Section 1215.05 (above) that the Board deems to be appropriate for the requested Conditional Use.

Resolution:

For your convenience, the following resolution may be considered by the Board of Zoning Appeals when making a motion:

"I move to approve a Conditional Use pursuant to Section 1215.08 of the Pataskala Code for application CU-23-001 ("with the following conditions" if conditions are to be placed on the approval)."

From: [Felix Dellibovi](#)
To: [Jack Kuntzman](#)
Subject: RE: Pataskala BZA Review Memo for 03-14-2023
Date: Wednesday, February 22, 2023 2:20:36 PM
Attachments: [VA-23-001\(1\).png](#)
[VA-23-001\(2\).png](#)
[FW FW Pataskala Zoning - 2010 Pine Hills Drive - Patio.msg](#)
[image003.png](#)

VA-23-001:

A driveway permit application (#21-136) was submitted on 3/15/2021 where a concrete driveway was to be installed on the property located at 163 Meadow Way. Under the conditions section of the permit, it was stated that the "driveway shall be finished in concrete within one (1) year from date of approval". The permit application was approved on 3/23/2021. *(See attached pictures VA-23-001(1) and VA-23-001(2))*

During a routine permit audit, it was discovered that the permit application was never final inspected. Upon inspection of the property on 1/18/2023 it was observed that half of the driveway was made concrete; however, the other half of the driveway was left as gravel.

A courtesy notification was given on 1/18/2023 advising that constructing a gravel driveway in a platted subdivision is prohibited; pursuant to Section 1291.02(A)(4) of the City Codified Ordinances. A courtesy letter advising the previously mentioned code violation was sent on 1/27/2023, and a violation letter was sent on 2/6/2023.

VA-23-002:

While conducting a routine audit of previous years permit applications, I came across patio permit application #20-549 for the property located at 2010 Pine Hills Drive. This permit was submitted on 9/1/2020 and never processed due to the property owner needing a variance in order to proceed with the patio. Upon inspection of the property on 2/6/2023 it was observed that a patio had been installed but did not have the approved permit. Part of the patio was constructed in the easement. An email was sent out by the Planning and Zoning Clerk Lisa Paxton on 7/1/2021 inquiring if the patio was still being constructed and advising that they would need an updated site plan due to the patio being in the easement. *(See attached email)*

A courtesy notification was made on 2/6/2023 advising that a zoning permit is required for the construction of a patio per Section 1209.02 of the City Codified Ordinances. A courtesy letter advising the previously mentioned code violation was sent on 2/14/2023, and a violation letter was sent on 2/22/2023.

CU-23-001:

I received a complaint regarding a dog daycare business that was being operated without proper permitting on the property located at 239 Sims Road. A courtesy notification was made on 1/23/2023 advising that operating a business in a residential district requires a conditional use per Section 1267 of the City Codified Ordinances. A courtesy letter was sent on 1/27/2023 advising the previously mentioned code violation, and a violation letter was sent on 2/6/2023.

Fire District Comment

VA-23-006: Felix Dellibovi, Verdantas, Chris Sharrock, Bruce Brooks, Doug White, Kasey Perkins, Alan Haines **No comment**

CU-23-001: Felix Dellibovi, Verdantas, Bruce Brooks, Doug White, Kevin Miller, Scott Morris, Alan Haines **The owner should contact the Fire Districts Fire Marshal's office to schedule an inspection. The owner can schedule the inspection with any one of the 3 of the Marshals.**

If you have any comments or concerns regarding these applications, please have them submitted to me **no later than Monday, March 6, 2023.** They will be included in the Staff Report that is given to the Board members. If you have questions regarding these applications, feel free to contact me. A link to download the applications is below.

 [BZA Review Memo for 03-14-2023](#)

Thank you for your assistance.

JACK R. KUNTZMAN

City Planner

City of Pataskala

621 West Broad Street, Suite 2-A

Neighbor Comment

From: [abarner829](#)
To: [Lisa Paxton](#)
Subject: March 14th hearing
Date: Monday, March 6, 2023 1:24:39 PM

CAUTION: This email message came from an external (non-city) email account. Do not click on any links within the message or attachments to the message unless you recognize the sender's email account and trust the content.

Hi Lisa, I received your email from a neighbor in regards to the proposed dog kennel at 239 Sims Rd. I'm unable to attend the hearing but I'd like my email to be considered. My husband has owned our home on Sims Rd for over 20 years. It's always been a quiet place that we enjoy living. We have 3 young children, 2 grand children, and as 2 dogs of our own. We have no sidewalks or street lights. Our children often play basketball in the road and at the end of road near this house where the neighbors on the opposite side have a basketball hoop and have allowed them to use. They often ride their bikes and scooters on the road because again. We have NO sidewalks and traffic is minimal. We DO NOT want this dog kennel. Can you imagine how much traffic will be up and down our once quiet street? People don't go slow down it either. They tend to fly. This is not only dangerous to our children and the many other children who reside on Sims Rd, but it's a detriment to the peaceful neighborhood we have known and loved for decades. And clearly the homeowner has NO regard for any other neighbors as they did not obtain the proper permits and STILL held their "grand opening" this past weekend. I'm upset, I'm angry, and I'm urging the city to please NOT allow this kennel. I love dogs as much as the next person. But the traffic and noise alone will be a nightmare! Please feel free to contact me if need be.

Amy and Jamie Barner
7407550188

Sent from my T-Mobile 5G Device



CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

621 West Broad Street, Suite 2A
Pataskala, Ohio 43062

CONDITIONAL USE APPLICATION

(Pataskala Codified Ordinances Chapter 1215)

Property Information	
Address: 239 Sims Rd SW	
Parcel Number: 063-147342-00.000	
Zoning: R-87	Acres: 1.36
Water Supply:	
<input type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input checked="" type="checkbox"/> On Site
Wastewater Treatment:	
<input type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input checked="" type="checkbox"/> On Site

Applicant Information		
Name: Kim Sims		
Address: 239 Sims Rd SW		
City: Pataskala	State: OH	Zip: 43062
Phone: 719-502-6086	Email: Kim.sims61@gmail.com	

Property Owner Information		
Name: Same as Above		
Address:		
City:	State:	Zip:
Phone:	Email:	

Conditional Use Information
Request (Include Section of Code): 1231.04(1)
Describe the Project:

Staff Use
Application Number: CV-23-001
Fee: \$300.00 Cash or <u>Check</u>
Filing Date: 2-6-2023
Hearing Date: 3-14-2023
Receipt Number: 000992

Documents
<input checked="" type="checkbox"/> Application
<input checked="" type="checkbox"/> Fee
<input checked="" type="checkbox"/> Narrative
<input checked="" type="checkbox"/> Site Plan
<input checked="" type="checkbox"/> Deed
<input checked="" type="checkbox"/> Area Map

Documents to Submit

Conditional Use Application: Submit 1 copy of the conditional use application.

Narrative Statement: Submit 1 copy of a narrative statement explaining the following:

- The reason the conditional use has been requested.
- The specific reasons why the conditional use is appropriate as it pertains to Section 1215.04 of the Pataskala Code:
 1. *Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on this application.*
 2. *Will be harmonious with and in accordance with the general objectives, or with any specific objective of the City comprehensive plan and/or this Code.*
 3. *Will be designed, constructed, operated and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
 4. *Will not be hazardous or disturbing to existing or future neighboring uses.*
 5. *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
 6. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
 7. *Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but not limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.*
 8. *Will have vehicular approaches to the property which shall be so designed as to not create interference with traffic on surrounding public thoroughfares.*
 9. *Will not result in destruction, loss, or damage of a natural, scenic, or historical feature of major importance.*
- Specific standards for conditional uses can be found in Section 1215.05 of the Pataskala Code.
- Wireless Telecommunication Facilities must also meet the requirements outlined in Section 1293.06(B) of the Pataskala Code.

Site Plan: Submit 1 copy (unless otherwise directed by staff) of a site plan to scale of the subject property indicating the following:

- All property lines and dimensions
- Location and dimensions of all existing and proposed buildings and structures.
- Setbacks from property lines for all existing and proposed buildings, structures and additions
- Easements and rights-of-way
- Driveways
- Floodplain areas
- Location of existing wells and septic/aerator systems.
- Any other information deemed necessary for the conditional use request

Deed: Provide a copy of the deed for the property with any deed restrictions. Deeds can be obtained from the Licking County Recorder's website here: <https://apps.lcounty.com/recorder/paxworld/>

Area Map: Submit 1 copy of an area map showing the property and the surrounding area. Area maps can be obtained from the Licking County Auditor's website here: <https://www.lickingcountyohio.us/>

Signatures

I certify the facts, statements and information provided on and attached to this application are true and correct to the best of my knowledge. Also, I authorize City of Pataskala staff to conduct site visits and photograph the property as necessary as it pertains to this conditional use request.

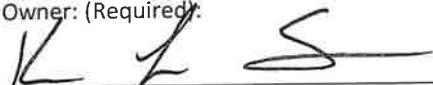
Applicant (Required):



Date:

6 Feb 2023

Property Owner: (Required):



Date:

6 Feb 2023

Conditional Use:

Section of Code 1231.04 (1)

Describe the Project:

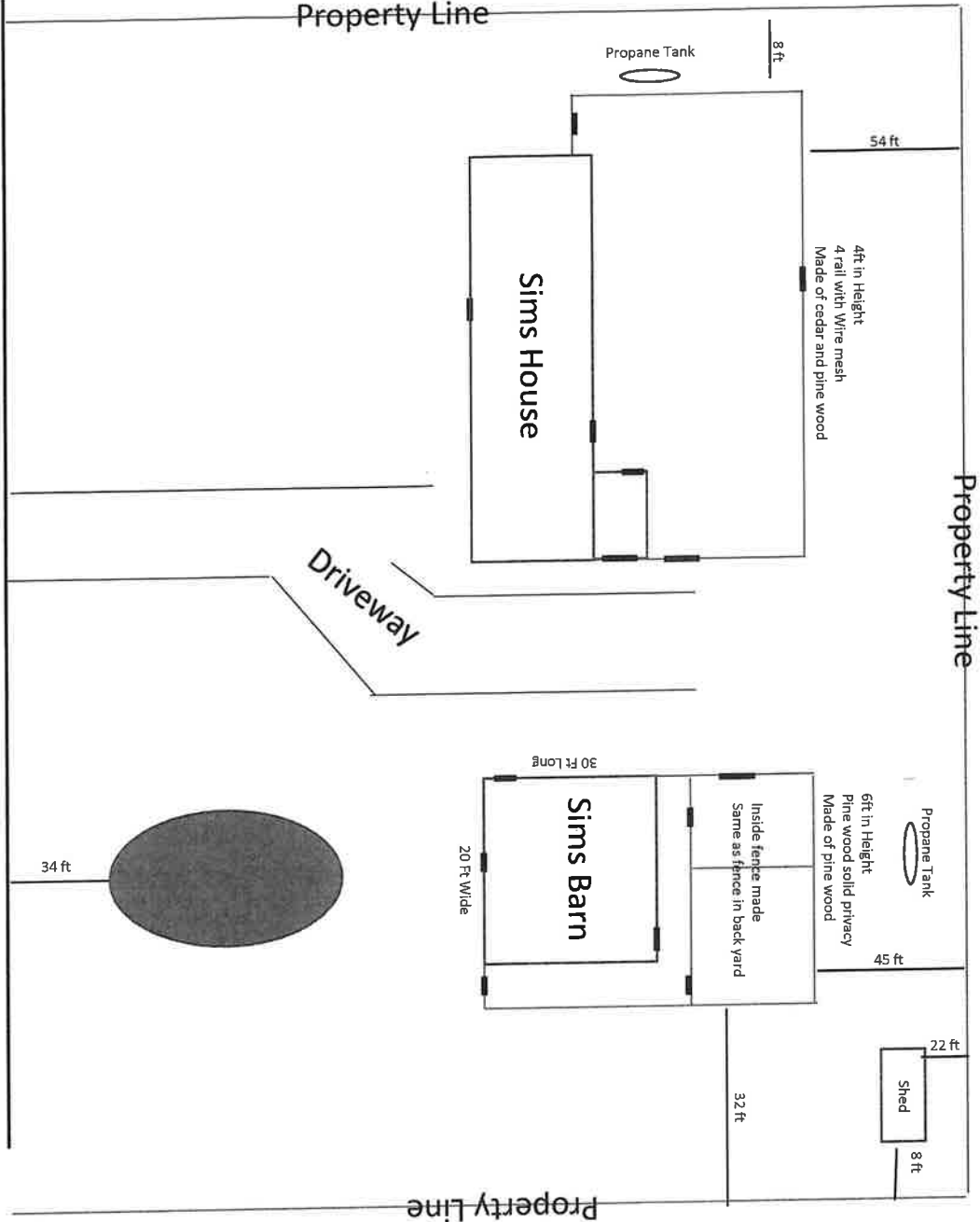
We would like to utilize our existing barn to open a small dog boarding business. The barn sits on the back of the property on the east side of the lot.

Ruff's Ranch will be open seven days a week for drop off and pick up from 7AM to 9AM and again 5PM to 7PM. When dogs are outside, they will always be under adult supervision, and they will be inside by 8pm. The outside dog play areas are surrounded by 6 feet high privacy fence on the back side of the barn.

The barn is fully insulated with open cell spray foam and covered in wood or metal to act as a sound barrier. There are 14 stalls for dogs with multiple dimensions depending on the dogs' size.

There are no houses except the owner's residence directly adjacent to the barn property.

2339 Sims Rd Fence Permit



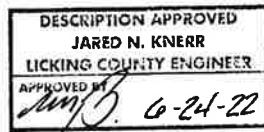






202207010016350

Pgs:3 \$42.00 T20220017073
7/1/2022 12:27 PM BXCROWN
Bryan A. Long Licking County Recorder



GENERAL WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENT: That Isaac P. Liller, also known as Isaac Liller and Emily P. Liller, also known as Emily Liller, husband and wife ("Grantors"), for valuable consideration paid, grant with general warranty covenants to Kim Sims ("Grantee"), whose tax mailing address is:

4112 Pinnacle Point Dr. Dallas TX
the following described Real Property: 75211

SEE EXHIBIT "A" ATTACHED HERETO

Prior Instrument Reference: 201907170014273, Licking County Recorder's Office

and

201712070026866, Licking County Recorder's Office

Parcel Number: 063-147342-00.000

Property Address: 239 Sims Road, Pataskala, OH 43062

This conveyance, and Grantors' covenants, are subject to the following: The lien of any taxes and assessments not now due and payable; zoning ordinances and regulations; legal highways; and restrictions, conditions, reservations and easements of record.

Grantors hereby release all rights to dower thereunder.

192



01150910320681019000

Signed and acknowledged by Isaac P. Liller, also known as Isaac Liller and Emily P. Liller, also known as Emily Liller, the Grantors of and to the foregoing Deed, on this 19 day of May 2022.

Isaac P. Liller
Isaac P. Liller, also known as
Isaac Liller

Emily P. Liller
Emily P. Liller, also known as
Emily Liller

STATE OF Ohio)
COUNTY OF Franklin) SS:

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

Before me, a Notary Public in and for said County and State, personally appeared Isaac P. Liller, also known as Isaac Liller and Emily P. Liller, also known as Emily Liller, the Grantors of and to the foregoing Deed, whose identity was known or proven to me and who did sign the foregoing instrument and acknowledged the signing hereof to be their voluntary act and deed.

In testimony thereof, I have hereunto set my hand and official seal at Columbus, Ohio, this 19 day of May 2022.



KAREN L. MILLER
Notary Public
State of Ohio
My Comm. Expires
November 9, 2026

Karen L. Miller
Notary Public
Printed Name
My Commission expires: 11-9-2026

THE PREPARER OF THIS DOCUMENT, AS IDENTIFIED BELOW, DOES NOT REPRESENT THE PARTIES TO THIS TRANSACTION AND HAS BEEN RETAINED BY THE TITLE COMPANY SOLELY FOR THE PURPOSE OF PREPARING THE SAME. ALL PARTIES ARE ADVISED TO CONSULT THEIR RESPECTIVE ATTORNEYS PRIOR TO ACCEPTING OR EXECUTING THIS DEED. FURTHER, THE PREPARER OF THIS DOCUMENT DID NOT PERFORM A TITLE SEARCH OF THE PROPERTY.

This instrument prepared by:
Brian K. Duncan, Esq.
BKD LEGAL, LLC
119 E. Granville St.
Sunbury, OH 43074

EXHIBIT "A"

LEGAL DESCRIPTION

Situated in the County of Licking, in the State of Ohio and the City of Pataskala:

Being Lot Number 19-A Replat of Lots Numbered Nineteen (19) and Twenty (20) in SIMS GARDENS SUBDIVISION, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 7, Page 107, and Replat in instrument Number 202002250004681, Recorder's Office, Licking County, Ohio.

Parcel Number: 063-147342-00.000

This notice serves as documentation that Kim and Kasey Sims, owners of 239 Sims. Rd SW have informed us of their intention to open a small dog boarding business at their residence.


The barn sits on the back of the property on the east side of the lot. Ruff's Ranch is only open for drop off and pick during 2-hour windows twice a day. When dogs are outside, they will always be under adult supervision and in an enclosed area with a 6ft tall privacy fence.



The barn is fully insulated with spray foam and covered in wood or metal to act as a sound barrier. There are no houses except the owner's residence directly adjacent to the barn property.

With all of this information we support the Sim's request to obtain a variance allowing them to have Ruff's Ranch on their property.

Thank you,

Kim and Kasey Sims

JESSIE KOTTENSPARGER 2/2/23 
Name Date Signature

Address 222 Sims Rd SW
 2-6-23 
Name Date Signature

Address 240 Sims Rd. SW